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Attorneys for Defendants
Kiarash Jam and Integrated Administration, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

THE WIMBLEDON FUND, SPC (CLASS
TT),

Plaintiff,

v.

GRAYBOX, LLC; INTEGRATED
ADMINISTRATION; EUGENE SCHER,
AS TRUSTEE OF BERGSTEIN TRUST;
CASCADE TECHNOLOGIES CORP.,
and THE LAW OFFICES OF HENRY N.
JANNOL,

Defendants.

THE WIMBLEDON FUND, SPC (CLASS
TT),

Plaintiff,

v.

C.D. Cal. Consolidated Case No.
2:15-cv-6633-CAS-AJWx
Honorable Christina A. Snyder

**DECLARATION OF DAVID W.
WIECHERT, ESQ. IN SUPPORT OF
DEFENDANT KIARASH JAM'S
MOTION FOR SUMMARY JUDGMENT**

Hearing Date: May 13, 2019
Time: 10:00 a.m.
Courtroom: 8D

DECLARATION OF DAVID W. WIECHERT, ESQ. IN SUPPORT OF DEFENDANT
KIARASH JAM'S MOTION FOR SUMMARY JUDGMENT

DAVID BERGSTEIN; JEROME
SWARTZ; AARON GRUNFELD; and
KIARASH JAM.,

Defendants.

AND CONSOLIDATED ACTIONS AND
RELATED THIRD-PARTY ACTIONS.

DECLARATION OF DAVID W. WIECHERT, ESQ.

I, David Wiechert, declare:

1. I am an attorney licensed to practice in the State of California and am admitted to practice in the United States District Court for the Central District of California. I represent defendant Kiarash Jam in the above-captioned matter. I have personal knowledge of the following and, if called to do so, I could competently testify thereto.

2. Attached as **Exhibit A** is a true and correct copy of documents Bates-stamped WF0000317-WF0000352, produced by Plaintiff The Wimbledon Fund, SPC (Class TT) (“Wimbledon”), which contain documents pertaining to Swartz IP Services Group, Inc. (“SIP”) and Owari Opus, Inc. (“Owari”). Included within this Exhibit are:

(a) Deutsche Bank “Corporate Account Authorization and Terms and Conditions – Officer’s Certificate” for Account Number 5XL068080, bearing a signature of David Bergstein (“Bergstein”) on SIP’s behalf. WF0000317-WF0000318.

(b) SIP’s Certificate of Formation filed with the Texas Secretary of State’s Office on December 2, 2010. WF0000319-WF0000321.

(c) SIP’s By-laws. WF0000322-WF0000329.

(d) SIP’s designation of an Employer Verification Number. WF0000330-WF0000331.

1 (e) A “Certificate of Account Status” provided by the Texas Comptroller of
2 Public Accounts, dated November 10, 2011, for SIP. WF0000332.

3 (f) SIP’s “Resolutions of Sole Director,” bearing Bergstein’s signature and dated
4 December 2, 2010. WF0000333-WF0000335.

5 (g) SIP’s “Resolutions of Sole Director,” bearing Bergstein’s signature and dated
6 November 11, 2011. WF0000336-338.

7 (h) Owari’s “Waiver of Notice of First Meeting of Stockholders of Owari Opus,
8 Inc.,” bearing Bergstein’s signature as “Sole Stockholder” and dated November 1, 2010.
9 WF0000339.

10 (i) Owari’s “Minutes of Annual Meeting of Stockholders of Owari Opus, Inc.,”
11 bearing Bergstein’s signature. WF0000340-WF0000341.

12 (j) Owari’s By-laws. WF0000342-WF0000350.

13 (k) Owari’s Certificate of Formation, filed with the Delaware Secretary of
14 State’s Office on October 21, 2010. WF0000351-WF0000352.

15 3. Attached as **Exhibit B** is a true and correct copy of a “Certificate of
16 Amendment” filed with the Texas Secretary of State’s Office on June 13, 2012, changing
17 SIP’s name to “Advisory IP Services, Inc.” Bates-stamped #JAM_TT_001060-65.

18 4. Attached as **Exhibit C** is a true and correct copy of an excerpt, pages 203-
19 213, of the deposition of Frymi Biedak taken on March 25, 2019.

20 5. Attached as **Exhibit D** is a true and correct copy of the documents marked as
21 “Exhibit 26” in the deposition of Frymi Biedak taken on March 25, 2019. Ms. Biedak
22 identified this exhibit as an email forwarding documents constituting an application to
23 open a Deutsche Bank account. She identified David Bergstein’s (“Bergstein”) signature
24 and that Bergstein was the sole signatory for this account.

25 6. Attached as **Exhibit E** is a true and correct print-out from the Internal
26 Revenue Service’s website indicating that Graybox, LLC (“Graybox”) was SIP’s
27 “Responsible Party” for tax purposes. Bates-stamped # IA_TT_001914.

28 7. Attached as **Exhibit F** is a true and correct copy of an excerpt, page 248, of

1 the deposition of Kiarash Jam taken on March 27, 2019.

2 8. Attached as **Exhibit G** is a true and correct copy of an excerpt, pages 110
3 through 111, of the deposition of Majid Zarrinkelk taken on March 26, 2019.

4 9. Attached as **Exhibit H** is a true and correct copy of the document marked as
5 “Exhibit 25” in the deposition of Frymi Biedak taken on March 25, 2019. Ms. Biedak
6 identifies the document as one that she prepared.

7 10. Attached as **Exhibit I** is a true and correct copy of an excerpt, pages 201
8 through 202, of the deposition of Frymi Biedak taken on March 25, 2019.

9 11. Attached as **Exhibit J** is a true and correct copy of an affidavit, dated June
10 17, 2016, filed by Bergstein in New York County Case No. 653309/2012, wherein
11 Bergstein attests that he is the sole owner of Owari Opus, Inc. Bates-stamped
12 #JAM_TT_001149-61.

13 12. Attached as **Exhibit K** is a true and correct copy of an excerpt, pages 147
14 through 149, of the deposition of Kiarash Jam taken on March 27, 2019.

15 13. Attached as **Exhibit L** is a true and correct copy of an excerpt, pages 2608,
16 2632, 2717 through 2718, and 2820 of the trial transcript in *United States v. Bergstein*,
17 S.D.N.Y. No. 16-cr-0746 (PKC), dated February 27, 2018 reflecting Bergstein’s
18 testimony.

19 14. Attached as **Exhibit M** is a true and correct copy of the “Swartz IP Services
20 Group, Inc. Reference Notes due November 14, 2016,” dated November 14, 2011,
21 produced by Wimbledon as Bates-stamped #WF0000028-WF0000030.

22 15. Attached as **Exhibit N** is a true and correct copy of the “Note Purchase
23 Agreement” dated November 14, 2011 and between SIP and Wimbledon produced by
24 Wimbledon as Bates-stamped #WF0001926-WF0001949.

25 16. Attached as **Exhibit O** is a true and correct copy of a partially executed “Side
26 Letter” dated November 17, 2011 addressed to Keith Wellner at Weston Capital Asset
27 Management, LLC, produced by Wimbledon as Bates-stamped #WF0000290-
28 WF0000291.

1 17. Attached as **Exhibit P** is a true and correct copy of an excerpt, pages pages
2 141 through 143, 147 through 149, and 150 through 154 of the rough transcript of the
3 deposition of Keith Kelty, as a person most qualified for Wimbledon, dated March 29,
4 2019.

5 18. Attached as **Exhibit Q** is a true and correct copy of an excerpt, pages 46
6 through 78, of the deposition of Kiarash Jam taken on March 27, 2019.

7 19. Attached as **Exhibit R** is a true and correct copy of an excerpt, pages 78
8 through 88, of the deposition of Kiarash Jam taken on March 27, 2019.

9 20. Attached as **Exhibit S** is a true and correct copy of an excerpt, pages 28
10 through 30, 45, and 138 through 140, of the deposition of Majid Zarrinkelk taken on
11 March 26, 2019.

12 21. Attached as **Exhibit T** is a true and correct copy of an excerpt, pages 68
13 through 69, of the deposition of Kiarash Jam, as a person most qualified for Integrated
14 Administration, taken on March 28, 2019.

15 22. Attached as **Exhibit U** are true and correct copies of the documents marked
16 as “Exhibit 11” and “Exhibit 12” in the deposition of Kiarash Jam taken on March 27,
17 2019. Taken together, these emails show that Mr. Jam returned executed copies of the
18 Reference Notes and Note Purchase Agreement within eleven minutes of receiving a
19 request to do so from Bergstein.

20 23. Attached as **Exhibit V** is a true and correct copy of an excerpt, pages 43
21 through 45, 133 through 138, 157 through 159, 178 through 179, and 281 through 285, of
22 the deposition of Kiarash Jam taken on March 27, 2019.

23 24. Attached as **Exhibit W** is a true and correct copy of an excerpt, pages 31
24 through 34 and 65 through 66, of the deposition of Kiarash Jam, as a person most
25 qualified for Integrated Administration, taken on March 28, 2019.

26 25. Attached as **Exhibit X** is a true and correct copy of the “Confidential
27 Compromise Settlement and Release Agreement,” dated November 16, 2017 and
28 executed by Bergstein on his personal behalf and on behalf of Graybox and SIP, and

1 Wimbledon.

2 26. Attached as **Exhibit Y** is a true and correct copy of “Wimbledon’s Opposition
3 to Defendants Kiarash Jam and Integrated Administration; Memorandum of Points and
4 Authorities in Support Thereof,” filed with the Court on February 4, 2019 as Dkt. No.
5 391.

6 27. Attached as **Exhibit Z** is a true and correct copy of Wimbledon’s “Response to
7 Defendant Kiarash Jam’s Requests for Admission to Plaintiff The Wimbledon Fund, SPC
8 (Class TT) – Set One.”

9 28. Attached as **Exhibit AA** is a true and correct copy of an excerpt, pages 93
10 through 96, and 219 through 222 of the deposition of Frymi Biedak taken on March 25,
11 2019.

12 29. Attached as **Exhibit BB** is a true and correct copies documents marked as
13 “Exhibit 11” in the deposition of Frymi Biedak taken on March 25, 2019. Ms. Biedak
14 identified the exhibit as checks from SIP’s Wells Fargo Bank account and signed by
15 Bergstein.

16 30. Attached as **Exhibit CC** is a true and correct copy of a document marked as
17 “Exhibit 31” in the deposition of Frymi Biedak taken on March 25, 2019. Ms. Biedak
18 identified the exhibit as an email wherein she forwarded a Wells Fargo Bank
19 representative SIP’s corporate documents in order to open a Wells Fargo Bank account.

20 31. Attached as **Exhibit DD** is a true and correct copy of the “Stipulation of
21 Dismissal of Defendants Graybox, LLC, Eugene Scher as Trustee of Bergstein Trust,
22 Cascade Technologies Corp., The Law Offices of Henry N. Jannol, David Bergstein,
23 Aaron Grunfeld, and Jerome Swartz,” filed with the Court on January 4, 2018 as Dkt. No.
24 317.

25 32. On April 9, 2019 I spoke with Alan Sege, attorney for David Bergstein. Mr.
26 Sege advised me that due to Mr. Bergstein’s pending appeal in *United States v. David*
27 *Bergstein*, Mr. Bergstein would decline to provide any testimony or declaration pertaining
28 to SIP.

1 I declare under the penalty of perjury that the foregoing is true and correct.
2 Executed this 10th day of April, 2019 in San Juan Capistrano, California.
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4 /s/David W. Wiechert

5 David W. Wiechert
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